

IN AND BEFORE THE OKLAHOMA STATE BOARD
OF MEDICAL LICENSURE AND SUPERVISION
STATE OF OKLAHOMA

STATE OF OKLAHOMA)
EX REL. THE OKLAHOMA BOARD)
OF MEDICAL LICENSURE)
AND SUPERVISION,)
)
Plaintiff,)
)
v.)
)
ADAM MERCHANT, M.D.,)
LICENSE NO. 12514)
)
Defendant.)

FILED

MAR 21 2008

OKLAHOMA STATE BOARD OF
MEDICAL LICENSURE & SUPERVISION

Case No. 07-11-3411

**FINAL ORDER OF REPRIMAND, ADMINISTRATIVE FINE
AND COMMUNITY SERVICE**

This cause came on for hearing before the Oklahoma State Board of Medical Licensure and Supervision (the "Board") on March 13, 2008, at the office of the Board, 5104 N. Francis, Suite C, Oklahoma City, Oklahoma, pursuant to notice given as required by law and the rules of the Board.

Elizabeth A. Scott, Assistant Attorney General, appeared for the Plaintiff and Defendant appeared in person and pro se.

The Board *en banc* after hearing arguments of counsel and the sworn testimony of Defendant, and being fully advised in the premises, found that there is clear and convincing evidence to support the following Findings of Fact, Conclusions of Law and Orders:

Findings of Fact

1. The Board is a duly authorized agency of the State of Oklahoma empowered to license and oversee the activities of physicians and surgeons in the State of Oklahoma pursuant to 59 Okla. Stat. §480 *et seq.* Board has jurisdiction over this matter, and notice has been given in all respects in accordance with law and the rules of the Board.
2. Defendant, Adam Merchant, M.D, holds Oklahoma medical license no. 12514 and is a board certified pathologist currently practicing in Oklahoma City, Oklahoma.

3. Beginning on or around 2004 and continuing through approximately September 2006, Defendant practiced at the Northwest Medical Center in its Vein and Circulation Center in Oklahoma City, Oklahoma. During this time, Defendant also supervised Tereena Salter, a certified micropigmentationologist, in her micropigmentation practice. At that time, Defendant's Vein and Circulation Center office was in the same building as Ms. Salter's micropigmentation business. Defendant admits that he was never present before, during or after any of the micropigmentation treatments performed by Ms. Salter, nor did he ever review any charts or records or perform physical examinations of patients receiving micropigmentation prior to the procedures.

4. As part of the micropigmentation procedures, Ms. Salter's patients were often given Lortab and Valium provided by Defendant. Defendant accomplished this by ordering or prescribing Lortab and Valium in the name of the "Vein and Circulation Center" for office use, which he then provided to Ms. Salter or her agent each time she performed micropigmentation on her patients. Defendant admits that he did not physically examine any of the patients prior to the patients receiving the controlled dangerous drugs from Ms. Salter that he had prescribed.

4. In consideration for agreeing to supervise Ms. Salter and act as her "medical director", Defendant was paid twenty percent (20%) of Ms. Salter's net profits. Payments to Defendant from 2004 through September 2006 averaged between one-thousand (\$1,000.00) and two-thousand dollars (\$2,000.00) per month.

5. In or around September 2006, the Vein and Circulation Center was bought by St. Anthony Hospital and Defendant's practice was moved to the St. Anthony Clinic.

6. Ms. Salter did not move her micropigmentation practice to Defendant's office, but instead purchased and opened her own office in south Oklahoma City. Ms. Salter allowed Defendant to utilize a room in her office for his patients in exchange for his agreement to supervise her micropigmentation practice. Defendant admits that he generally spent two (2) days per week in the office in Ms. Salter's business performing his own aesthetic procedures.

7. With respect to the Ms. Salter's micropigmentation patients, Defendant admits that he was never present before, during or after any of the micropigmentation treatments performed by Ms. Salter, nor did he ever review any charts or records or perform physical examinations of patients receiving micropigmentation prior to the procedures.

8. When Ms. Salter moved her micropigmentation practice to south Oklahoma City, she requested Lortab and Valium for her patients. Defendant continued to prescribe Lortab and Valium in the name of the "Vein and Circulation Center" for "office use." He then allowed Ms. Salter to keep the drugs at her micropigmentation office so that she could administer them to her patients as requested. Defendant admits that he did not physically examine any of the patients prior to the patients receiving the controlled dangerous drugs from Ms. Salter that he had prescribed.

9. Based on the allegations stated above, Defendant is guilty of unprofessional conduct as follows:

- A. Aided or abetted the practice of medicine and surgery by an unlicensed, incompetent, or impaired person in violation of OAC 435:10-7-4(21).
- B. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of 59 O.S. §509(14).
- C. Directly or indirectly gave or received any fee, commission, rebate, or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4(30).
- D. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(12).
- E. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

Conclusions of Law

1. The Board has jurisdiction and authority over the Defendant and subject matter herein pursuant to the Oklahoma Allopathic Medical and Surgical Licensure and Supervision Act (the "Act") and its applicable regulations. The Board is authorized to enforce the Act as necessary to protect the public health, safety and welfare.

2. Defendant is guilty of unprofessional conduct in that he:

- A. Aided or abetted the practice of medicine and surgery by an unlicensed, incompetent, or impaired person in violation of OAC 435:10-7-4(21).

- B. Aided or abetted, directly or indirectly, the practice of medicine by any person not duly authorized under the laws of this state in violation of 59 O.S. §509(14).
- C. Directly or indirectly gave or received any fee, commission, rebate, or other compensation for professional services not actually and personally rendered in violation of OAC 435:10-7-4(30).
- D. Prescribed or administered a drug or treatment without sufficient examination and the establishment of a valid physician patient relationship in violation of 59 O.S. §509(12).
- E. Engaged in the indiscriminate or excessive prescribing, dispensing or administering of controlled or narcotic drugs in violation of OAC 435:10-7-4(1).
- F. Violated any state or federal law or regulation relating to controlled substances in violation of OAC 435:10-7-4(27).

3. The Board further found that the Defendant's license should be **REPRIMANDED** based upon any or all of the violations of the unprofessional conduct provisions of 59 O.S. §509 (12) and (14) and OAC 435: 10-7-4 (1), (21), (27) and (30).

Order

IT IS THEREFORE ORDERED by the Oklahoma State Board of Medical Licensure and Supervision as follows:


1. Defendant, Adam Merchant, M.D., Oklahoma license no. 12514, is hereby **FORMALLY REPRIMANDED**.

2. Defendant shall pay an **ADMINISTRATIVE FINE** in the amount of \$10,000.00 to be paid on or before September 13, 2008.

3. Within six (6) months of the date of this Order, Defendant shall complete two-hundred (200) hours of **COMMUNITY SERVICE** at a facility approved in advance in writing by the Board Secretary.

4. Promptly upon receipt of an invoice, Defendant shall pay all costs of this action authorized by law, including without limitation, legal fees and costs, investigation costs, staff time, salary and travel expenses, witness fees and attorney's fees.

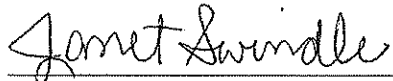
Dated this 21 day of March, 2008.



Gerald C. Zumwalt, M.D., Secretary
Oklahoma State Board of
Medical Licensure and Supervision

CERTIFICATE OF SERVICE

I certify that on the 24 day of March, 2008, I mailed, via first class mail, postage prepaid, a true and correct copy of this Order to Adam Merchant, 3330 N.W. 56th Street, #208, Oklahoma City, OK 73112.



Janet Swindle